

WANDA HAMBY KILEY,)
)
Plaintiff)
)
v.) Civil No. 93-146-P-C
)
)
DONNA E. SHALALA, Secretary)
of Department of Health and)
Human Services,)
)
Defendant)

Upon a careful review of the motion, supporting affidavits and the court's entire file, and in the absence of an opposing memorandum from the defendant, I conclude that the plaintiff is the prevailing party in this action, that she is otherwise eligible for an award of attorney fees under the Equal Access to Justice Act, 28 U.S.C. ' 2412, since her net worth does not exceed \$2,000,000 and that she should be awarded reasonable attorney fees inasmuch as the position of the defendant in this litigation was not substantially justified. I further conclude that \$115.44 is an appropriate hourly rate (adjusted pursuant to the escalator provision of 42 U.S.C. ' 415(i)) given the experience of each of the plaintiff's attorneys in handling social security disability claims, and that Drew L. Johnson, Esq. and Roberta Ouellette, Esq. should be credited with 3.1 hours and 2.0 hours, respectively, as reasonable time for services required by and performed for the plaintiff. Accordingly, I recommend that the plaintiff be awarded reasonable attorney fees totalling \$588.74 (\$357.86 for attorney Johnson and \$230.88 for attorney Ouellette) and that judgment be entered against the defendant accordingly.

NOTICE

A party may file objections to those specified portions of a magistrate judge's report or proposed findings or recommended decisions entered pursuant to 28 U.S.C. ' 636(b)(1)(B) for which de novo review by the district court is sought, together with a supporting memorandum, within ten (10) days after being served with a copy thereof. A responsive memorandum shall be filed within ten (10) days after the filing of the objection.

Failure to file a timely objection shall constitute a waiver of the right to de novo review by the district court and to appeal the district court's order.

Dated at Portland, Maine this 26th day of January, 1994.

*David M. Cohen
United States Magistrate Judge*